IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8629 OF 2004

The New India Assurance Co.Ltd. .. Petitioner
Versus
Smt.Poonam Nilesh Thakur & Ors. .. Respondents

WITH

WRIT PETITION NO.8630 OF 2004

The New India Assurance Co.Ltd. .. Petitioner
Versus
Smt.Shakuntala Shrirang Thakur
and Anr. .. Respondents

Mr.M.G.Barve for petitioner
Mr.M.B.Kotak for respondents.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 20th January 2006.

P.C.

. Heard Mr.Barve for petitioner and Mr.Kotak for respondents - original claimants.

2. Admittedly, original claimants applied to

the trial court invoking its powers under section 140 of the Motor Vehicles Act, 1988 which permits the Court to direct payment of compensation on the basis of no fault liability.

3. During the course of such proceedings, petitioner insurance company raised a contention that mere production of photocopy of the cover note by the claimants and reference to its details in the application shall not by itself be a conclusive proof that the vehicles in question were insured with the petitioner company and that petitioner company is liable to pay the amounts even in respect of no fault liability. In my view, limited as the jurisdiction of the Tribunal is at the stage of section 140 of Motor Vehicles Act and in the facts and circumstances of the present case, the Tribunal was in no error in passing the order on the prima facie view that petitioner is liable to pay the amounts for the accident caused by the vehicles in question. The

trial court has referred to the details pertaining to the insurance company as set out in the application and also the number of cover notes and the period which is covered thereby. Contention that the subject vehicle was not insured and that the cover note produced is not genuine is something which can be gone into at a later stage and neither the order passed nor the observations made by the trial court while disposing of the application under section 140 would bind the trial court in passing appropriate orders on merits of the matter. Insurance company can always raise pleas about its liability. Needless to state that such pleas would be taken cognisance of irrespective of this Court's reluctance to interfere, at this stage, under Article 227 of the Constitution of India. Petition is dismissed. Amounts which have been deposited with the court below shall be allowed to be withdrawn by claimants in accordance with mandate of section 140 of the Motor Vehicles Act.

(S.C.DHARMADHIKARI, J)